

# The National Directorate of Civil Status in Mali and Its Role in the Celebration of Marriage (Comparative Analytical Study)

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## SUMMARY OF THE RESEARCH

The question of the organization of personal status, in particular the marriage contract, is one of the fundamental issues that guarantee the stability of society and the rights of individuals, and requires modern legislation that is in line with contemporary systems. The Republic of Mali stands out as a model integrating Islamic Sharia, traditions and modern laws. The National Directorate of Civil Registry plays a central role in the authentication of contracts and the organization of legal procedures, in order to ensure the rights of the parties and the stability of the family. The study offers a comparison between Malian law and the provisions of Islamic Shariah, with a detailed analysis of conditions and procedures, such as age, consent, dowry, and prohibited marriages. It also highlights the importance of official contract registration to ensure and protect rights in the event of a dispute. It also aims to improve the legal system and strengthen the protection of individual rights, thus contributing to the establishment of a stable family and a cohesive society. It can be said that it revolves around the organization of personal status, in particular the marriage contract in the Republic of Mali.

**Keywords:** Republic of Mali, marriage, National Directorate of Civil Status, civil registrar, religious representative.

## INTRODUCTION

Praise be to Allah who initiated creation from a single soul, Adam (peace be upon him), announcing the unity of human origin and affirming the human brotherhood that gathers all the descendants of Adam. From this one soul, His power willed to create his bride, Eve (peace be upon her), to be a dwelling place and an affection, and the beginning of procreation and the extension of life. He has scattered many men and women from them; The offspring spread over the earth, the languages and colors diversified, but the origin is unique and the source is noble.

May the most perfect and complete prayers and salvation be upon the noblest of the Prophets and Messengers, Muhammad ibn Abdullah, sent as mercy to the universe, as well as upon his family and companions, and abundant salvation.

That being said,

The issue of the regulation of civil status is considered to be one of the vital issues closely linked to the strengthening of social ties, the preservation of the stability of society and the guarantee of the rights of individuals within a clear and solid legal framework. The marriage contract is one of the fundamental pillars on which the family rests, which is the basic unit of society. It is through it that the kinship ties, rights, duties and responsibilities of individuals in the context of their social relations are determined. Therefore, the subject of the registration of the marriage contract and its legal provisions acquires paramount importance, especially in the face of the contemporary challenges imposed by legal and social developments, which require the modernization of legislation and the development of competent administrative systems to guarantee the protection of rights and the facilitation of procedures.

In this context, the Republic of Mali appears to be a model for the study of the regulation of civil status, where civil laws, social traditions and the provisions of the Sharia are intertwined, creating a situation of interaction and interweaving between the different references governing conjugal and family relations.

Mali, as a Muslim-majority country, where the number of Muslims reaches between 90%<sup>1</sup> and 93%,<sup>2</sup> and some statistics have reached 95%,<sup>3</sup> adopts many provisions in its legal organization that are in line with Islamic law, in addition to modern legislation aimed at organizing the process of marriage documentation, simplifying the procedures for obtaining documents and protecting the rights of the parties involved.

It is in this context that the importance of the comparative analytical study that addresses the role of the National Directorate of Civil Status (DNEC) in the Republic of Mali in the regulation of the marriage contract, through the examination of the legal framework, formal procedures, as well as the rights and duties arising from these contracts, lies. The competent administration plays a central role in modernizing the civil registration system, issuing official certificates and ensuring that contracts are legally documented, thus safeguarding the rights of the parties and supporting the stability of the family and society in general.

In addition, the regulation of the marriage contract, in accordance with the laws in force, requires the activation of registration mechanisms, the supervision of conditions and compliance with formal procedures, in order to achieve justice and legal certainty.

In the framework of this study, the focus will be on a comprehensive analysis of the concept of marriage in Malian law, with a comparative approach between the provisions of local legislation and the requirements of the Islamic Shariah, in particular regarding the pillars of the contract, its conditions and the procedures necessary for its conclusion, in addition to the rights and duties incumbent on the spouses after the finalization of the contract.

The aim is to highlight points of convergence and divergence, and to propose a global vision that contributes to the improvement and development of the legal system, strengthens the protection of the rights of the parties and facilitates the procedures for documenting the marriage.

The study will also address the procedures for documenting marriage through official documents, which are considered an essential means of guaranteeing rights, facilitating administrative procedures and providing legal evidence in case of disputes or disputes. The documentation of the contract, whether before the civil registrar or the religious representative, is one of the fundamental pillars that enshrines the legitimacy of the marriage.

In conclusion, this research aims to make an instructive contribution that reconciles the legal, social and religious aspects related to the marriage contract in the Republic of Mali, through a comparative analysis that illustrates the degree of concordance and contrast between positive laws and the provisions of the Sharia, focusing on the role of the National Directorate of Civil Status in the execution and facilitation of documentation procedures, the development of information systems and the strengthening of transparency and legal protection.

If these legal and regulatory frameworks are effectively applied, they will contribute to the building of a stable family, the protection of the rights of individuals and the development of society, in accordance with constitutional and legal principles, thus ensuring the sustainability of social and economic development in the Republic of Mali.

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[1] Geographical Encyclopedia of the Islamic World. Publisher: General Directorate of Culture and Publishing of the Imam Muhammad ibn Saud Islamic University. Riyadh. Saudi Arabia. First edition, 1999 11/426.

[2] Nafez Ayoub Belto, Mahmoud Shaker. The citizen of the Islamic peoples in Africa 14. Mali. Edition of the Islamic Bureau. Damascus - Syria 1977. No editing. Page: 75.

[3] Consumption, poverty and family well-being: April 2015 – March 2016. Report of the National Institute of Statistics of Mali. Publication date: May 2016. Place of publication: Mali. Page: 11.

## Previous studies

The researcher does not deny the existence of studies on the marital bond in Islamic law, nor does he exclude the existence of works on this subject in law. However, he did not find any that contained the dispersions of this search independently.

Among these works, we find:

1. (Provisions of Personal Status in the Islamic Shariah), by Dr. Abd Al-Azīm Sharaf Ad-Dīn:

It is an analytical jurisprudential study. This book is an important reference for understanding the legal aspect of the marital bond, addressing many of its essential facets. Dr. Sharaf Ad-Dīn presents a detailed study of the provisions of personal status in the Islamic Shariah, devoting the first chapter to marriage and its provisions in general. The following chapters deal with crucial aspects of the formation and continuity of the marital bond, such as: marriage, forbidden women, matrimonial jurisdiction, guardianship and adoption, marriage arrangements, dowry, and alimony.

The book can be used as an important source for understanding the foundations and principles by which the Islamic Shari'a governs the marital bond. The information contained therein can be used when comparing the concepts and provisions relating to the marriage contract, its conditions and pillars, as well as conjugal rights and duties, with what is stipulated in the Family Code in the Republic of Mali.

While this book is important in providing a comprehensive Islamic framework for marriage, it focuses on Islamic Sharia in general and does not specifically address the Family Code in the Republic of Mali, nor the National Directorate of Civil Registry in Mali or its role in the marriage contract. Therefore, this research can fill these gaps.

2. (Personal Status in Islam), by Aḥmad Naṣr Al-Jundī:

It is a comparative analytical study. This book is an important source for reviewing the various aspects of personal status in Islamic Sharia, including what concerns the marital bond. The book presents a comparative study between Sharia law and the law in matters of personal status. It addresses multiple aspects related to the marital bond, including: the definition of betrothal and marriage, marriage arrangements, conjugal rights, forbidden marriage, polygamy, divorce and its provisions, divorce pronounced by the judge), expense, prejudice and absence of the man, and the effects of marriage.

It can be used in this research to understand the foundations and principles by which the Islamic Shari'ah governs the various aspects of the marital bond, including its formation, continuity, and primary effects. The information it contains can also be used when comparing these aspects with what is stipulated in the Family Code in the Republic of Mali.

Although the book covers many aspects of personal status, it does not specifically address Malian law. Therefore, this research can fill this gap.

3. (Personal Status in Islamic Sharia Jurisprudence and Justice "Marriage"), by Dr. Abd Al-'Azīz 'Āmir:

It is a comparative jurisprudential and judicial study. This book is a valuable reference for understanding the legal and judicial aspect of the formation and dissolution of the marital bond in the Islamic Sharia. The book presents an in-depth study of the marriage provisions in the Islamic Sharia with reference to the judicial aspects. In its first chapter, it dealt with: marriage in terms of definition, legal description, betrothal or preludes to the contract, pillars and conditions of the marriage contract, forbidden women, guardianship and power of attorney in marriage, matrimonial jurisdiction and the provisions of the marriage contract. In the second chapter, he dealt with: divorce and its provisions, divorce by the wife's request, divorce pronounced by the judge, the 'iddah period and its provisions.

This book is an essential source for understanding the foundations, principles and legal and judicial provisions relating to the formation, continuity and dissolution of the conjugal bond. The information contained in it can be used when comparing these aspects with what is stipulated in the Family Code in the Republic of Mali.

It focuses on Sharia law in general with judicial references and does not specifically address the Family Code in the Republic of Mali. Therefore, this research can complement this aspect.

#### 4. (The Sacred Lights on Personal Status), by Abd Al-Karīm Al-Mudarris:

It is an analytical jurisprudential study. This book deals with the various aspects of personal status in the Islamic Shariah, including the formation and dissolution of the marital bond and the provisions arising from it. It provides a detail of the provisions of personal status in Islamic jurisprudence. In the first chapter, he addresses: the meaning of marriage, its provisions and pillars, the prohibitions of marriage, guardianship and its causes, arbitration, delegation and rejection of certain invalid contracts, matrimonial jurisdiction, dowry and its provisions, the marriage feast, division and disobedience. In the second chapter, he addresses: divorce and its provisions and types, divorce by the wife's request, Sunni divorce and heretical divorce, refutation of certain proofs and ambiguities concerning divorce, suspension of divorce and oath by it, return, abstinence and repudiation, defamation and mutual imprecation and their dispositions, the 'iddah period and its provisions and the overlap of the 'iddah periods and what is owed to the woman in the waiting period, bereavement and its provisions, alimony and child custody and its provisions.

This book helps to understand the foundations, principles and legal provisions relating to the formation of the marital bond and its effects in Islamic jurisprudence. The information contained in it can be used when comparing these aspects with what is stipulated in the Family Code in the Republic of Mali.

Although the book is exhaustive in its coverage of aspects of marriage and its effects, it focuses on Islamic jurisprudence in general and does not specifically address the Family Code in the Republic of Mali. Therefore, this research can add this aspect.

## METHODOLOGY

The study adopted the descriptive, analytical, and comparative method, where information was collected from person and family and compared to Islamic Sharia law in order to highlight points of convergence and divergence between the two.

### Section 1: A Brief History of the Republic of Mali

The Republic of Mali is one of the largest countries in West Africa, with an area of 1,240,190 km<sup>2</sup><sup>1</sup>, and it became independent on September 22, 1960<sup>2</sup>, and its population in 2022 reached 22,395,489.<sup>3</sup> Muslims make up 95% of the total population, and the remaining 5% are divided between Christians and pagans<sup>4</sup>.

It is a secular and democratic state<sup>5</sup>. His design is "One People – One Goal – One Faith".<sup>6</sup> It is bordered by seven countries: Niger to the east, Burkina Faso to the southeast, Côte d'Ivoire to the south, Guinea Conakry to the southwest, Senegal and Mauritania to the west, and Algeria to the north.

[1] The Government of the Republic of Mali. Golden Book of the Fiftieth Anniversary of Independence from Evil 1960-2010.- Year of publication: 2010. Place of publication: Bamako, Republic of Mali. Page: 67.

[2].Mali News Agency. Place of publication: Bamako, Republic of Mali. Publication date: 2010. No editing. Page:20.

[3]Fifth general population and housing census. Publisher: Ministry of Economy and Finance. National Institute of Statistics. Central Bureau of Statistics. Place of publication: Republic of Mali. Published date: November 2023, Page: 24

[4] Report of the National Institute of Statistics of Mali. Page: 11.

[5] Official Journal of the Republic of Mali. Decree No. 2023-0401/PT-RM of 22 July 2023 adopting the Constitution. Publisher: General Secretariat of the Government. Place of publication: Republic of Mali. Publication date: July 22, 2023. Page: 4.

[6] The previous reference. Page: 5.

Mali is made up of eight major cities, seven regions in addition to the capital: Kayes, Koulikoro, Sikasso, Ségou, Mopti, Timbuktu, Gao, Kidal and the capital (Bamako).

The territory of Mali is a vast and flat plain, valleys, sand dunes, mountains and highlands. Its climate is tropical. There are three zones: the Sudanese zone in the south-western part, the intermediate Sahelian zone between the southern and northern parts, and the desert zone in the north-eastern part. Its three main seasons are: the cold season, the hot season, and the rainy season.

Mali is a landlocked country, without a coastline. It has two main rivers: the Niger River and the Senegal River, which play an important role in the country's economy as they are navigable, irrigate the land, are used for fishing, maritime transport, and the production of electrical energy, among other things.

The northern region of Mali is characterized by livestock soils. These livestock include camels, cows, and sheep. The southern region is renowned for agriculture, growing rice, wheat, millet, fonio, groundnuts, sugar cane, tea, and others.

Fishing is practiced in all the waters of Mali. Its lands contain many mineral riches, the most important of which are: gold, silver, bauxite and rock salt.

Ethnic groups are numerous, including the Bambara, Soninke (Sarakhollé), Songhai, Senufo, Bozo, Dogon, Kounta (Hassan), Tuareg, and others.

The most widespread language in Mali, especially in the south, is Bambara, spoken by the majority of the inhabitants. French is the official language <sup>1</sup>.

## Section 2: The Emergence of Islam in the Republic of Mali

Mali is not a country that has recently converted to Islam; on the contrary, its populations have been Muslim for a long time – in general – with the exception of a very small minority.

It is located in West Africa. Historically, many empires and kingdoms have been established in this region, some covering the entire territory of its territory, others being larger than its current area, and some covering only a portion of it. The important thing is that Mali has had links with all these kingdoms.

The first of these empires under which Islam entered was the **Ghana Empire**. Writings indicate that Islam existed in the Empire as early as the third century of the Hijra<sup>2</sup>.

The Empire was founded in the first century A.D. by the Soninke tribe (Sarakholle) and lasted until the thirteenth century A.D., according to history books Its capital was (**Kumbi Saleh**), the capital of the Muslims, which is famous in history books, or **Al-Ghaba**, the official administrative seat of the Empire according to some documents <sup>3</sup>.

As for its borders, it was bordered to the east by the Niger River basin, to the west by present-day Mauritania, to the south by the Senegal and Niger rivers, and to the north by the Sahara<sup>4</sup>.

As for how Islam reached the region, references indicate that it was through trade, that Muslim merchants promoted it with their wares. The manners and morals of Islam were observed there, and the inhabitants entered Islam as individuals at first, until it ended in general, with the entry of the kings and notables of the region into

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[1] Mohammed Khamis Al-Zouka. Geography of the Islamic World. Edition: Dar Al-Maarifa University. Place of publication: Alexandria, Egypt. No editing. Year of publication: 2000. Pages: 452, 453 and 454. With modification.

[2] Mahmoud's Shaker. Islamic History -15- Contemporary History. Western Africa. Publisher: Islamic Bureau. Publication date: 1997. Second edition. Place of publication: Beirut. Page: 118

[3] Mohamed Fadel Ali Bari, Saeed Ibrahim Kreidieh. Muslims in West Africa: History and Civilization. Publisher: Dar Al-Kutub Al-Aliyyah. Place of publication: Beirut, Lebanon. First edition. Year of publication: 2007. Page: 57

[4] Mohammed Salif Diallo. National History. Publisher: Islamic Library, El Hadj Issa Ongoiba. Year of publication: 1993. Place of publication: Bamako, Republic of Mali without edition. Page: 14.

Islam, and the Empire took on an Islamic character. All this was done by peaceful means, without recourse to arms. If there were some Jihad battles, their number was small compared to the peaceful way <sup>1</sup>.

### **Section 3: Presentation of the National Directorate of Civil Status in the Republic of Mali**

The National Directorate of Civil Status (DNEC) was definitively established on 25 November 2011 <sup>2</sup>.

On August 16, 2018, the Malian government adopted, in the Council of Ministers, the National Civil Registration Strategy to support the country's efforts to promote and improve the provision of civil registration services to all Malians, inside and outside the country.

In addition to the National Civil Status Strategy, the government of the Republic of Mali has adopted several laws and decrees to organize this sector in order to make it accessible to citizens.

The ambitions of this strategy include, among others, the modernization of the civil registration system by strengthening the means and measures to make civil registration accessible to all, and so that every citizen has the opportunity to obtain a birth certificate in the best conditions, with the easiest procedures and in a secure way.

It is essential that all civil status procedures (birth certificate, marriage certificate, death certificate) be carried out in accordance with rules that are defined, understandable and accepted by all, and that are disseminated, shared and known.

These rules are applied on behalf of the State, in addition to various missions, by many officials, including: officials elected as civil registrars, civil registrars, declaration agents, representatives of the State such as governors, sub-prefects, those responsible for the administrative census for civil status, and representatives of the judicial authority, including court presidents and their deputies, as well as representatives of the police and gendarmerie.

The National Directorate of Civil Registry is responsible for drawing up a set of texts aimed at providing a framework for the legal framework and adapting it to the international context.

It also puts a policy of updating the civil status system in order to secure the documents created and ensure that they are protected from infringement.

In this approach, the digitization of acts, the subsequent digitization of certificates and registers, and the interconnection of centers via a unified civil status database are fundamental challenges of this renewal.

It is essential that all concerned know and master the various civil status texts of the Republic of Mali.

This edition is part of the process of dissemination and exchange of information on civil status.

The project was fully funded by the European Union through the Support Programme for the Civil Registry Administration of Mali and the establishment of a secure information system<sup>3</sup>.

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[1] Mahmoud's Shaker. Page: 119. With modification.

[2] This is in application of Decree No. 2011-013/P-RM of 20 September 2011 and ratified by Law No. 2011-069 of 25 November 2011.

[3] Ministry of Territorial Administration and Decentralization. The civil status system in Mali - Legislative and regulatory texts. Edition: Ministry of Territorial Administration and Decentralization. No editing. Publication year 2019. Place of publication: Bamako, Republic of Mali. Page: 5.

The efforts of the National Directorate of Civil Registry have begun to bear fruit, birth, marriage and death certificates are transmitted to it by the municipalities and other competent authorities. and it documents and registers them digitally, which has prevented falsifications and made it easier to consult them when necessary<sup>1</sup>.

#### **Section 4: The Marriage Contract in the Family Code of the Republic of Mali**

This section addresses the concept of marriage in Malian law, starting with betrothal and the definition of marriage, through the conditions of validity of the contract and its essential pillars (capacity, consent, dowry, and legal impediments). It will examine the formalities for concluding the marriage contract, whether before the civil registrar or the religious representative, as well as the mutual rights and duties of the spouses.

In order to achieve a deeper understanding and comparative analysis, particular emphasis will be placed on the points of convergence and divergence between the provisions of the Malian Family Code and the rules of the Islamic Sharia in the regulation of these fundamental aspects of the marriage contract.

It is divided into two subsections:

##### **Sub-section 1: Betrothal and Marriage in the Family Code of the Republic of Mali**

This subsection deals with the definition of betrothal and marriage in the Family Code of the Republic of Mali through two titles:

###### **Title 1: Definition of Engagement in the Family Code of the Republic of Mali**

The definition of betrothal in the Family Code of the Republic of Mali is: "Betrothal is an agreement by which a man and a woman, in agreement with their family, mutually promise each other marriage".<sup>2</sup>

The Family Code of the Republic of Mali addressed the subject of betrothal in an excessively brief manner, dealing with no other aspect than its break-up, stating: "The break-up, without legitimate reason, may give rise to the right to compensation in application of the provisions of the law on the General Regime of Obligations".<sup>3</sup>

He did not refer to these obligations anywhere else. He should have referred to certain provisions and the conditions of the betrothal.

###### **Title 2: Definition of marriage in the Family Code of the Republic of Mali**

Marriage is defined in the Family Code of the Republic of Mali as: "Marriage is a public act, by which a man and a woman agree to establish a legal union between them, the conditions of formation, effects and dissolution of which are governed by the provisions of this book."<sup>4</sup>

Marriage, in the family code of the Republic of Mali, is only a contract by agreement, without specifying the religious union or non-union between the spouses.

As for the person who concludes the contract, he indicated that it is "celebrated by the civil registrar or by the minister of religion".<sup>5</sup>

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[<sup>1</sup> ] Dr. Youssouf DIAGOURAGA. Professor of Law at the University of Bamako. Republic of Mali. On 03/12/2025. With modification.

[2] See Article 278 of the first title of Book I of the Family Code of the Republic of Mali by Law No. 2011-087 of 30 December 2011, page: 89.

[3] Previous reference. Page: 89.

[4] Previous reference Page: 89.

[5] See Article 278, page: 89.

The practice in the country is that religious marriage is celebrated in mosques, places of worship, homes, and any other place agreed upon by the bride and groom<sup>1</sup>.

## **Sub-section 2: Marriage Provisions in the Family Code of the Republic of Mali**

This subsection addresses the conditions of marriage, the requirements of the contract, its obligations and its arrangements in the Malian Family Code through two titles:

### **Title 1: The conditions of marriage in the Family Code of the Republic of Mali**

The Family Code of the Republic of Mali establishes four essential conditions for marriage: the age of the spouses, consent to marriage, dowry and forbidden marriage, which are as follows:

#### **First condition:** Age requirements:

The Family Code of the Republic of Mali sets the minimum age for marriage at eighteen (18) years for men and sixteen (16) years for women, with exceptions.

The contract may be concluded by decision of the Court of Appeal before the civil judge granting an exemption from age for exceptional reasons, but the authorization decision is issued to the future spouses who are not less than fifteen (15) years of age, and a copy of the decision of dispensation is attached to the act of marriage<sup>2</sup>.

Any civil registrar or minister of religion who celebrates a marriage for a person under the required age is liable to imprisonment from six months to one year with a fine of 120,000 <sup>3</sup> CFA francs <sup>4</sup>.

Islamic law does not set a specific age for marriage, but prefers that it take place at puberty, which differs from person to person. In some traditions, the boy or girl is considered to be of age at legal puberty, which is usually determined based on physical appearance and ability to take on responsibilities <sup>5</sup>.

And what is noticed during the celebration of the religious contract is that the religious representative does not ask for the age of both spouses, which is in accordance with the usual practice<sup>6</sup>.

#### **Second condition:** consent to marriage

The Family Code of the Republic of Mali stipulates: "There is no marriage when there is no consent".<sup>7</sup>

The explanation is given in the following paragraph: "Consent is not valid if it has been given by a mistake about the person.

It must be given orally and in person before the civil registrar by each of the future spouses. It is evidenced by the signature or, failing that, by the affixing of a fingerprint to the foot of the deed.

However, in the event of separation, if one of the future spouses residing outside the place where the marriage is to be celebrated cannot appear in person before the civil registrar of his or her residence.

This act is transmitted by the latter authority to the civil registrar responsible for celebrating the marriage.

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[1] Mohamed Moussa TRAORE. Imam of Mosque happiness. Lafiabougou. Bamako. Mali. On: 03/12/2025. With modification.

[2] See section 281.

[3] Approximately \$200 USD.

[4] See Article 282.

[5] Prof. Dr. Wahba bin Mustafa Al-Zuhaili. Islamic jurisprudence and its proofs (Body of evidence and sectarian opinions, the most important jurisprudential theories, and the investigation and gradation of the hadiths of the Prophet). Publisher: Dar Al-Fikr. Place of publication: Damascus – Syria. Second edition: 1985. 7/186. With amendment.

[6] Sidiki MARIKO. Member of the management committee for the Aly Boun Abi Tolib mosque. Boulkassoulbougou. Bamako. Republic of Mali. On 02/12/2025. With modification.

[7] See section 283.



In this case, the marriage must be celebrated before a duly mandated representative of the spouse who is unable to attend. This representative is required to sign or, failing that, to affix his fingerprints to the foot of the marriage certificate.

The consent of parents or legal guardians may be given under the conditions provided for in paragraph 3 of this article.

In the event of an incapacity due to illness, distance or any other cause, the consent of the parents or legal representatives may be given in writing in a document drawn up by the mayor or the head of the administrative district of the residence of the person concerned.

This act shall bear the signature or, failing that, the fingerprints of the person concerned".<sup>1</sup>

The minor spouse must obtain the consent of his or her parents, and in the event of disagreement, the father's opinion is sufficient.<sup>2</sup>

In order for the marriage of a minor spouse to be celebrated, he or she must also be recognized by his or her father as his or her son. If the child is of unknown parents, he or she may enter into marriage only with the authorization of his or her guardian or with special authorization from the person in charge of the administrative district of his or her place of residence by delegation. This authorization must be attached to the marriage certificate.<sup>3</sup>

A civil registrar who solemnizes a marriage without ensuring the consent of each of the spouses is liable to imprisonment for a maximum of six months to one year, with a fine of 25,000 <sup>4</sup> to 120,000 <sup>5</sup> francs, or to one of these two penalties only.<sup>6</sup>

In Islamic law, the consent of both parties is also required, but it is subject to broader social and religious customs, so the consent of the guardian must be obtained by affirmative and acceptance. In many Muslim societies, the consent of the family, especially the father, may be required, the details of which may vary depending on local cultures<sup>7</sup>.

And in Mali, during the celebration of the religious contract, the consent of the future spouses is taken into consideration<sup>8</sup>.

### **The third condition: the dowry**

The Family Code of the Republic of Mali stipulates: "The Family Code of the Republic of Mali stipulates: "The dowry is obligatory and symbolic in nature. In no case may the sum of 15,000 francs<sup>9</sup>. It can only give rise to restitution in the event of non-consummation of the marriage by the wife."<sup>10</sup>

In Islamic law, the dowry is a woman's right and must be paid to her by the husband, and it has no set limit, but it is preferable that it be something suitable and fulfilling for the woman<sup>11</sup>.

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[1] See section 283.

[2] See Article 284.

[3] See Articles 285 and 286.

[4] Approximately \$42 USD.

[5] Approximately \$200 USD.

[6] See Article 287.

[7] Abd al-Rahman bin Muhammad Awad Al-Jazeari. Fiqh on the four schools of thought. Publisher: Dar Al-Kutub Al-Ilmiyyah, Beirut, Lebanon. Second edition, 2000. 4/16.

[8] Mohamed Moussa TRAORE. With modification.

[9] Approximately \$25 USD.

[10] See section 288.

[11] Prof. Dr. Wahba bin Mustafa Al-Zuhaili: 7/225. With modification.

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### **The fourth condition: prohibited marriages**

Prohibited marriage is included in the Family Code of the Republic of Mali among the conditions of marriage. It stipulates that marriage is prohibited between:

- "The son and the mother;
- The brother and sister;
- The father and daughter;
- The uncle and niece in the direct line and in the 1st degree;
- The nephew and the paternal or maternal aunt;
- The man and the woman who suckled him;
- The man and daughter of the woman who suckled him;
- The man and the paternal or maternal aunts of his nurse;
- The man and the children of his nurse's daughter;
- The man and his wife's mother;
- The man and his son's former wife;
- The man and his father's former wife;
- The man and the daughter of his wife born of another marriage;
- The man and the sister of his living wife;
- The man and his wife's niece;
- People of the same sex;<sup>1</sup>

Here, the Family Code of the Republic of Mali is in line with Islamic Sharia on this issue, except that it does not stipulate the religious aspect. Therefore, the Family Code of the Republic of Mali allows marriage between any man and any woman who avoids the above-mentioned ties, regardless of religion. This contradicts the Islamic Sharia, as it only allows a man to marry a woman of the People of the Book (Christian or Jewish), and does not allow the marriage of a Muslim woman to a man of the People of the Book. Non-People of the Book are not concerned with the question of marriage, because it is absolutely forbidden in a single word <sup>2</sup>.

the emphasis is placed on the religious aspect during religious marriages in Mali, where the religious representative clearly specifies, in the ear of the audience, that the spouses must be Muslims, or that the man is Muslim and the woman is from the People of the Book (Christian or Jewish) for the contract to be valid<sup>3</sup>.

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[1] See section 289.

[2] Abd al-Rahman bin Muhammad Awad Al-Jazeari. 4/60. With modification.

[3] Aboubacar CAMARA. Secretary General of the League of Imams and Scholars of Mali. On 04/12/2025. With modification.

## Title 2: Requirements, obligations and provisions of the marriage contract in the Family Code of the Republic of Mali

These are the requirements of the marriage contract, concerning the document, the celebration, the matrimonial option<sup>1</sup>, the rights and duties... which are:

### **First: Marriage certificate:**

This is a document of proof for the conclusion of the marriage contract that contains:

- Information about the spouses: Surname, first name, age, profession and place of residence of each of the spouses.
- Information on the parents of the spouses: Surname, first name, profession and place of residence of the parents of each of the spouses.
- Guardian's consent: Proof of the consent of the father and mother or legal representatives, if any.
- Witness Information: Witnesses' first and last names, with an indication of their capacity to testify<sup>2</sup>.

### **Second: The Celebration of Marriage**

This aspect of the Marriage Act deals with the procedures and conditions necessary to finalize the marriage ceremony, whether before the civil registrar or a religious representative.

#### **Subtitle 1: Celebration before the civil registrar:**

It states the following:

- 1- **The place of celebration:** The marriage is celebrated publicly before the civil registrar at the place of residence of one of the future spouses.
- 2- **Publication:** A notice of marriage must be published fifteen (15) days before its date at the civil registry center of the place of residence of the spouses, and at the civil registry office of the previous residence of one of them if the change is dated less than six months. The notice must contain information about the future spouses (surname, first name, profession, age, place of residence), and the place and date of the celebration of the marriage. The notice will be posted for fifteen (15) days.
- 3- **Opposition:** Anyone with a legitimate interest can object to the marriage during the publication period. The objection must be in writing and substantiated.
- 4- **Certificate of non-opposition:** After the end of the publication period, the civil registrars of the centres concerned send a certificate to the civil registrar of the place of the celebration, attesting to the existence or absence of opposition.
- 5- **The date of the celebration:** The marriage cannot be celebrated before the expiration of the publication period, and in case of publication in other centers, it can only be celebrated after thirty (30) days from the date of publication if there is no opposition.
- 6- **Complaint:** If an objection is filed, the future spouse has the right to present his or her defence to the civil registrar. The objection shall be decided within fifteen (15) days of its submission.

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[1] That is, marriage is monogamous or polygamous.

[2] See section 306.

- 7- **Celebration of the marriage:** If there is no objection or if it is rejected, the civil registrar celebrates the marriage in the presence of two adult witnesses. The civil registrar reads certain articles of the law to the spouses, verifies their consent to the marriage, and then declares the marriage contract concluded.<sup>1</sup>

## Subtitle 2: The celebration before the religious representative

It states the following:

- 1- **The conditions of the celebration:** The marriage is celebrated publicly by the religious representative, in compliance with the conditions and prohibitions of marriage provided for by law.
- 2- **Publication:** A notice of marriage is published fifteen (15) days before its date at the place of worship where the celebration will take place.
- 3- **Marriage certificate:** Marriage is proven by a uniform document bearing the emblem of the State, the marks of the religious representative and the information provided for in article 306 of the law.
- 4- **Copies of the marriage certificate:** The religious representative prepares four (4) original copies of the marriage certificate, gives a copy to the spouses, sends one to the civil registrar, one to the clerk of the civil court and keeps one in the archives of the place of worship.
- 5- **Registration of the marriage:** The civil registrar registers the marriage in the register provided for this purpose and draws up the family record book of the spouses.
- 6- **Rights and duties:** The rights and duties of spouses and the dissolution of a marriage celebrated before a religious representative are subject to the provisions of the rights and duties of the Family Code of the Republic of Mali.<sup>2</sup>

The solemnization of marriage, whether before the registrar or a religious representative, requires an emphasis on the importance of publication, opposition and registration of the marriage to protect the rights of the spouses and to legally document the marriage.

## Third: The Matrimonial Option

The matrimonial option concerns the husband's choice to determine the matrimonial regime, whether monogamous or polygamous, and the conditions and controls related to each regime. There are two schemes:

- 1- **The monogamous regime:** In this regime, the husband cannot marry a second wife until the dissolution of the first marriage. If he wants polygamy, he must discuss it with his first wife and obtain her consent.
- 2- **Polygamous regime:** In this regime, the husband can marry more than one wife, but he cannot marry more than four. The woman must consent to this.

The matrimonial regime must be specified in the marriage contract at the time of its celebration, and this is indicated on the marriage certificate. The husband may postpone the option of polygamy until after the contract has been solemnized by a declaration made before a public officer, and this is added in the margin of the contract document.

Any person who marries under the monogamous regime and then remarries before the dissolution of the first marriage is punished in accordance with the provisions of the Penal Code. Similarly, any person who chooses the polygamous regime and then marries more than four wives is also punished in accordance with the provisions

[1] See articles: 290, 291, 292, 293, 294, 295, 296, 297, 298, 299.

[2] See Articles 300, 301, 302, 303, 304, 305.

of the Penal Code. A public officer or religious representative who celebrates a marriage contrary to these provisions is also punished.<sup>1</sup>

#### **Fourth: Rights and duties**

This title of the Marriage Act deals with the rights and duties of each spouse and defines the legal framework of the marital relationship, emphasizing common responsibilities and measures taken to protect the family. These are:

- The wife must obey her husband, and the husband must protect and care for his wife.
- The marital relationship must be governed by mutual respect, understanding, honesty and cooperation.
- Neither spouse can dissolve the marriage unilaterally without the other party. Anyone who does so shall be punished by imprisonment and a fine or by one of these two penalties.
- The spouses must provide spiritual and material guidance to the family. They must provide for their needs, educate and care for children and prepare for their future.
- The husband is the head of the family, and he loses this status in certain cases (absence, disappearance, prohibition, impossibility of proving his will).
- The choice of the family's place of residence is the husband's responsibility, and the wife must reside there with him.
- The family's expenses are the responsibility of the husband, and the wife can contribute if she has an income.
- In the case of polygamy, the husband is bound to equality between his wives, and each of them is considered a family.
- Spouses have the power to represent each other for the needs of the family, unless this power is withdrawn.
- The wife may apply to the civil court for permission to support herself from her husband's income if he defaults on expenses. The civil court may take emergency measures to protect the interests of the family if one of the spouses fails to fulfil his or her duties, and it may prohibit the husband from disposing of the joint property without the consent of the other party. The duration of these measures may not exceed two years.<sup>2</sup>

These points define the mutual rights and duties of the spouses, and emphasize the importance of mutual respect and cooperation in the management of family affairs. They also deal with the responsibility of spouses in bringing up children and securing their future, regulate matters of residence and family expenses, and put in place measures to protect the interests of the family in case of emergency.

## **RESULTS**

This research provides a detailed overview of the Republic of Mali, including its geographical location, area, population and political system. It underlines the historical importance of the arrival and spread of Islam through the ages, It has been shown that Mali is one of the largest countries in West Africa and that the percentage of Muslims is very high, ranging from 90 to 95%.. Research has also shown that Islam entered Mali through peaceful trade, and that the empires of Ghana and Manden (or Malinke) played a vital role in the spread of the Islamic religion, through ethical principles and peaceful methods that contributed to the establishment of Islamic

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[1] See sections 307, 308, 309 and 310.

[2] See Articles 316, 317, 318, 319, 320, 321, 322, 323.

civilization in the region. In addition, the geographical, cultural and linguistic diversity testifies to a rich heritage. The Niger and Senegal rivers are of considerable economic importance, while the north of the country is characterized by livestock farming, the south by agriculture, and the territory is rich in mineral resources. Ultimately, Mali is a country rich in Islamic history and cultural heritage, and trade and peaceful tolerance have been determining factors in the spread of Islam and the establishment of its ancient civilizations.

The study also concludes that the National Directorate of Civil Status in Mali was created with the aim of organizing and facilitating the issuance of civil documents, such as birth, marriage, and death certificates. It seeks to modernise and develop the civil registration system by relying on modern technologies and digitalisation, in order to ensure the provision of reliable and secure services to citizens. Malian legislation defines the conditions and mechanisms for concluding the marriage contract, insisting on respect for the minimum age, free consent, dowry, while avoiding marriages prohibited by law, with official documentation and the presence of witnesses. Marriage procedures vary from the celebration before a civil registrar or a religious representative, to the need for publication, registration and respect for the rights and duties of the spouses, which ensure respect for the marital relationship and the protection of the family. Malian legislation also specifies the existence of monogamous and polygamous marriage systems, establishing rules for the relationship between spouses, ensuring equality and justice, while respecting religious principles and social customs, with the aim of organizing married life and guaranteeing the stability of the family.

Finally, the study also reveals some differences between Malian legislation and Islamic Sharia law concerning certain aspects of marriage, in particular the fixing of the age and dowry mentioned in the contract. Islamic Sharia law does not set a specific age for marriage, preferring that it take place at puberty, which varies according to the individual. According to some traditions, a boy or girl is considered to have reached puberty when he or she reaches the legal age of majority, usually determined by physical appearance and ability to assume responsibility. In Islam, the dowry is a woman's right, which must be paid to her by the husband, without any specific limit, but it is preferable that it be reasonable and appropriate for the woman.

## CONCLUSION

Praise be to Allah, by whose grace good deeds are done, and peace and blessings be upon the Prophet and Messengers of Allah, Muhammad ibn Abdullah, and upon his family and all his companions.

That being said,

It is clear from this research that the National Directorate of Civil Status in the Republic of Mali plays a major role in the regulation and documentation of the marriage contract, drawing inspiration from a historical and legislative context, mixing the Islamic principles that govern the majority of the population and the laws by which the State is governed. Despite this interweaving, the Administration is striving to establish a legal system that guarantees the rights of individuals and ensures family stability, through regulatory and procedural mechanisms such as the determination of the age of marriage, mutual consent, dowry determination and compliance with the requirements of the contract.

Although marriage laws in the Republic of Mali recognize many Islamic principles, such as the determination of marriage prohibitions, they do impose procedural and regulatory rules, such as the requirement of legal age and the documentation of the contract, which may differ in some of their details from what is customary in Islamic jurisprudence. In addition, Malian law offers the option of monogamous or polygamous marriage and imposes certain conditions on the latter, whereas Sharia law allows it without conditioning the consent of the first wife.

The most important role of the National Directorate of Civil Status in the Republic of Mali is not limited to simple administrative documentation, but extends to the provision of legal protection to the family and its members. Through the digitization of registers and the simplification of procedures, this administration helps to reduce litigation and secure the rights of spouses and children, which is in line with one of the great goals of the Islamic Shariah, which is the preservation of lineage and family.

The Republic of Mali, a State with a Muslim majority, seeks, in the regulation of its personal status, to strike a delicate balance between the inspiration of well-established Islamic principles and values and the requirements of the modern State and contemporary legal and social developments, while taking into account the local cultural specificity. It is a continuous process of effort and development aimed at building just and effective legal systems that serve the interests of individuals and communities in the light of the tolerant Islamic Shariah.

Finally, we ask Allah to help us to obey Him, to perform our tasks and duties in the way He pleases, and to protect our society from all evil. He is the Guardian and the One who has the power to do so.

And our last supplication is: Praise be to Allah, Lord of the universe.

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